

DECISION

of Central Election Commission of the Republic of Azerbaijan

on consideration of the appeal # 186 submitted to the Central Election Commission on November 17, 2015 in the Elections to the Milli Majlis of the Republic of Azerbaijan on November 1, 2015

In their written apply addressed to the Central Election Commission on November 17, 2015, Nuriyev Dashgin Agharza, Huseynov Murad Ali, Aliyev Beybala Ashraf, Gozalov Aghahuseyn Safar and Shahaliyeva Matanat Gurban, candidates registered on Jalilabad-Masalli-Bilasuvar Con.EC # 69 challenged the decision # 26/85 of that Con.EC, dated November 9, 2015, requested to annul that decision, to make a decision on regard the voting results on some polling stations of that Con.EC as invalid and annul the voting results on that Con.EC.

The complaint was adopted for the implementation in comply with Articles 112 and 112-1 of the Election Code of the Republic of Azerbaijan and "Instruction on the rules for submission and investigation of the appeals and complaints filed to the Central Election Commission of the Republic of Azerbaijan and Constituency Election Commissions", relevant opinion was provided on this issue by a member of the Expert Group under CEC and considered at the Commission session upon the investigation of the appeal by the Expert Group member.

During the investigation process, the candidates to deputy who had appealed were tried to contact by mobile phone numbers which were indicated on their appeal, since the number did not receive the calls they could not be contacted.

The candidates claimed in their appeal that, the law violations were occurred on the Voting Day in the polling stations # 1, 2, 3, 4, 6, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 21, 22, 24, 28, 29, 30 and 31, also indicated such cases as ballot stuffing, issuing to the voter more than one ballot papers, marking of the ballot papers, the use of carousel voting method, non-counting of unused ballot papers during vote counting, failure to compile protocols at polling stations and give copies to observers.

They also informed that, they requested to adopt the relevant decision on invalidity of results by applying in written form to the Con.EC and adding acts on above-mentioned violations, but their participation in the investigation conducted by the Con.EC was not provided, the challenged decision # 26/85 on the failure to impelement the appeal on the basis of affidavits of observers and PEC members in the polling stations dated on November 9, 2015 was adopted.

It should be also mentioned that, the CD disk which allegedly contained photographs and videos was attached to the complaint submitted by plaintiffs, since any additional document was not added and their participation during the investigation was impossible, the investigation related with above-mentioned cases was conducted on acts submitted to the Con.EC and affidavits of relevant election subjects of commission.

During the investigation process was defined that, there was not any photograph in the CD disc which was attached to the complaint, since video recording was achieved by violation of the principle of observation, it cannot be regarded as evidence. Thus, pursuant to Article 41.1.3 of the Election Code observation should be open and pursuant to Article 42.2.8 of that Code to address suggestions and comments on the organization of voting to the chairperson of the Precinct Election Commission or, in the chairperson's absence, the person who assumes the chairperson's powers. In the case indicated in the appeal the plaintiff did not consider failure of observers to comply with the requirements of the above-mentioned election legislation.

Commission members of PECs representing different political forces and observers who had observed in the challenged polling stations, as well as commission member of the polling station # 1 in Goytapa representing Hope Party G.Mahmudov; G.Mursalov who had observed in the polling station # 2; the voter of that precinct V.Huseynov; M.Aghayev, M.Ibrahimov who had observed in the polling station # 3; H.Aliyev who had observed in the polling station # 4; the voters of that precinct M.Adiyev, S.Mammadov; Z.Babayev, H.Hasanov who had observed in the polling station # 6 in Privolnoye village; F.Rufullayev, N.Guliyev who had observed in the polling station # 8 in Aghdash; I.Asadullayev, D.Aliyev who had observed in the polling station # 10 in Chunzali village; M.Nazarov who had observed in the polling station # 11 in Vanlik village; A.Zeynalov who had observed in the polling station # 12 in Komanli village; M.Aliyev, A.Babayev, B.Karimov who had observed in the polling station # 15 in Kazimabad village; E.Suleymanov who had observed in the polling station # 17 in Kohna Alvadi village; N.Heydarli, M.Sharifov, F.Safarov who had observed in the polling station # 18 in Taza Alvadi village; Kh.Asgarov, S.Aliyev, H.Aliyev who had observed in the polling station # 29 in Aliabad village; D.Hasanov, R.Pashayev, G.Abdullayev who had observed in the polling station # 30 in Khirmandali village; Z.Hajiyev, A.Teymurov, T.Rzayev who had observed in the polling station # 31 in Khirmandali village informed in their affidavits related with the appeal submitted to the Con.EC that, they observed on Voting Day all day, voting process, vote counting and compilation of protocols by determination of results were conducted in comply with legal requirements, not any law violations took place, the observation process was not interfered in, the case of issuing to the voter more than one ballot papers was not occurred. They also mentioned in their affidavits that, the most of observers representing interests of plaintiffs who had signed the acts attached to the complaint submitted to the Con.EC by compilation of act on the alleged violation in those polling stations were not in the above-mentioned polling stations, those acts were not compiled in the polling stations. In their affidavits the commission members representing different political forces of above-mentioned PECs had refuted the facts in the appeal.

During the investigation process the protocols on the voting results of the challenged PECs were taken from the Con.EC and were reviewed. It was defined at the result of the review that, the protocol on the voting result on the polling station # 9 of Soyugbulag village should be re-compiled by the Con.EC and valid votes of candidates should be changed. Since this case is in the contrary to the requirements of the Election Code and

does not allow determining voters will, there was a legal basis to consider invalidity of the voting results of that polling station.

It was determined through the investigation that, detailed investigation related with the appeal of candidates was conducted by the Con.EC with the exception of above-mentioned case. It was mentioned in the affidavits submitted by numerous observers who had observed by representing different interests on the Voting Day in the polling stations where the alleged violations occurred that, the claimed violations were not occurred in the polling stations which were mentioned by plaintiffs.

Basing on the above-mentioned, there is a legal basis to implement the appeal partly, to consider invalidity of the voting results on the polling station # 9, not implement the other part of appeal, to annul the challenged decision of the Con.EC partly, in the part related with the polling station # 9 and to remain in force in the remaining part without any changes.

Taking the above mentioned as a basis, pursuant to Articles 19.4, 28.2, 112 and 112-1 of Election Code of the Republic of Azerbaijan and item # 1, 2, 4, 6 and 7 of the “Instruction on the rules for submission and investigation of the appeals and complaints filed to the Central Election Commission of the Republic of Azerbaijan and Constituency Election Commissions”, the Central Election Commission **decides**:

1. The appeal # 186 dated on November 17, 2015 submitted by Nuriyev Dashgin Agharza, Huseynov Murad Ali, Aliyev Beybala Ashraf, Gozalov Aghahuseyn Safar and Shahaliyeva Matanat Gurban, candidates registered on Jalilabad-Masalli-Bilasuvur Con.EC # 69 in the elections to the Milli Majlis of the Republic of Azerbaijan on November 1, 2015 shall be partly implemented, the voting results of the polling station # 9 shall be considered invalid, the other part of the appeal shall not be implemented due to groundlessness.
2. The decision # 26/85 of Jalilabad-Masalli-Bilasuvur Con.EC # 69 dated November 9, 2015 shall be annulled partly, in the part related with the polling station # 9, shall be remained in force in the remaining part without any changes.
3. The decision shall be enforced upon its publication.

CEC Chairman

Mazahir Panahov

CEC Secretary

Arifa Mukhtarova

CEC Secretary

Mikayil Rahimov